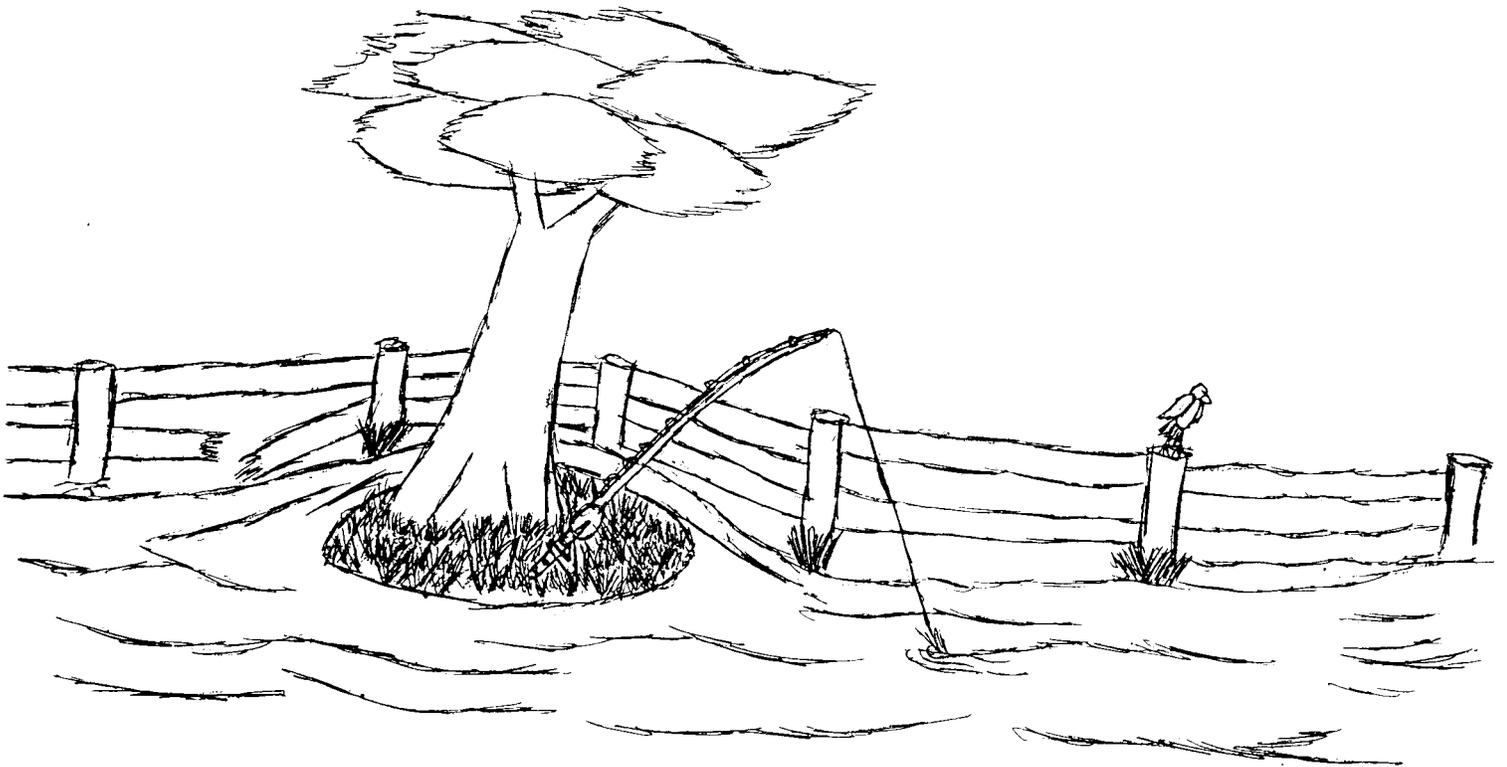

TEXAS REGISTER

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(E) assign one whole body impairment rating for the current compensable injury.

(F) be responsible for referring the employee to another doctor or health care provider for testing, or evaluation, if additional medical information is required. The certifying doctor is responsible for incorporating all additional information obtained into the report required by this rule:

(i) Additional information must be documented and incorporated into the impairment rating and acknowledged in the required report.

(ii) If the additional information is not consistent with the clinical findings of the certifying doctor, then the documentation must clearly explain why the information is not being used as part of the impairment rating.

(d) Reporting.

(1) Certification of MMI and assignment of an impairment rating for the current compensable injury requires completion, signing, and submission of the Report of Medical Evaluation and a narrative report.

(A) The Report of Medical Evaluation must be signed by the certifying doctor. The certifying doctor may use a rubber stamp signature or an electronic facsimile signature of the certifying doctor's personal signature.

(B) The Report of Medical Evaluation includes an attached narrative report. The narrative report must include the following:

(i) date of the certifying examination;

(ii) date of MMI;

(iii) findings of the certifying examination, including both normal and abnormal findings related to the compensable injury and an explanation of the analysis performed to find whether MMI was reached;

(iv) narrative history of the medical condition that outlines the course of the injury and correlates the injury to the medical treatment;

(v) current clinical status;

(vi) diagnosis and clinical findings of permanent impairment as stated in subsection (c)(3); and

(vii) the edition of the AMA Guides that was used in assigning the impairment rating.

(2) A Report of Medical Evaluation under this rule shall be filed with the Commission, employee, employee's representative, and the insurance carrier (carrier) no later than the seventh working day after the later of :

(A) date of the certifying examination; or

(B) the receipt of all of the medical information required by this section.

(3) The report required to be filed under this section shall be filed as follows:

(A) The Report of Medical Evaluation shall be filed with the carrier by facsimile or electronic transmission; and

(B) The Report of Medical Evaluation shall be filed with the Commission, the employee and the employee's representative by facsimile or electronic transmission if the doctor

has been provided the recipient's facsimile number or email address; otherwise, the report shall be filed by other verifiable means.

(e) Documentation. The certifying doctor shall maintain the original copy of the Report of Medical Evaluation and narrative as well as documentation of:

(1) the date of the examination;

(2) the date any medical records necessary to make the certification of MMI were received, and from whom the medical records were received; and

(3) the date, addressees, and means of delivery that reports required under this section were transmitted or mailed by the certifying doctor.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 18, 2000.

TRD-200003481

Susan Cory

General Counsel

Texas Workers' Compensation Commission

Effective date: June 7, 2000

Proposal publication date: November 19, 1999

For further information, please call: (512) 804-4286



TITLE 30. ENVIRONMENTAL QUALITY

Part 1. TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Chapter 111. CONTROL OF AIR POLLUTION FROM VISIBLE EMISSIONS AND PARTICULATE MATTER

Subchapter A. VISIBLE EMISSIONS AND PARTICULATE MATTER

Division 2. INCINERATION

30 TAC §§111.121, 111.123, 111.125, 111.127, 111.129

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts amendments to §111.121 (Single-, Dual-, and Multiple-Chamber Incinerators); §111.123 (Medical Waste Incinerators); §111.125 (Testing Requirements); §111.127 (Monitoring and Recordkeeping Requirements); and §111.129 (Operating Requirements). The commission adopts these revisions to 30 TAC Chapter 111 (Control of Air Pollution from Visible Emissions and Particulate Matter); Subchapter A (Visible Emissions and Particulate Matter); Division 2 (Incineration), in order to delete the current requirements for oxygen (O₂) and carbon monoxide (CO) continuous emissions monitoring systems (CEMS) for incinerators that qualify for exemptions in 30 TAC Chapter 106 (Exemptions from Permitting), §106.491 (Dual Chamber Incinerators), and §106.494 (Pathological Incinerators). Sections 111.121, 111.123, 111.125, and 111.129 are adopted without changes to the proposed text as published in the December 3, 1999 issue of the *Texas Register*(24 TexReg 10795) and will not be

republished. Section 111.127 is adopted with changes and will be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

The rules concerning incineration in Chapter 111, Division 2 currently require most incinerators burning solid waste or pathological waste to be equipped with CEMS. Incinerators burning more than 100 pounds per hour must be equipped with O₂ CEMS and a continuous temperature monitor/recorder. In addition, incinerators burning more than 225 pounds per hour must be equipped with CO CEMS. The O₂ and CO monitoring requirements are considered by several affected parties to be cost prohibitive and not contributing to an environmental benefit that justifies the additional cost.

On January 13, 1999, a representative in the Texas Legislature sent a letter to the executive director suggesting that the commission initiate rulemaking to exempt from monitoring requirements those incinerators which can meet a permit by rule found in §106.491. Based on verbal discussions among the air permits staff regarding the engineering and economics impact (for questions, contact David Ferrell, Air Permits Division, (512) 239-1265), the executive director sent a reply on February 16, 1999, agreeing to initiate this rulemaking.

On September 24, 1998, the commission received a letter from FM Systems, Incorporated of Wheat Ridge, Colorado requesting the commission allow pathological incinerators (for dead animals) to be permitted without the requirement for an oxygen monitoring system. FM Systems, Incorporated proposed a temperature chart recorder as a substitute for the oxygen monitor for the incinerators in the 100 - 200 pound per hour range. On April 9, 1999, the commission received a letter from FC Industries, Incorporated (FC Industries) (who represented three incinerator manufacturers: Therm-Tec, Inc., of Sherwood, Oregon; Shenandoah Manufacturing of Harrisonburg, Virginia; and National Incinerators of Corsicana, Texas) requesting that continuous monitoring and recording of secondary chamber temperature and oxygen on animal units burning more than 100 pounds per hour should be eliminated entirely. FC Industries also stated that the cost for a good quality, low maintenance oxygen monitor and recorder would be approximately \$10,000, which represents an additional cost over and above the cost of the incinerator of approximately 25 - 30%. FC Industries stated that the temperature and residence time requirements for secondary incinerator chambers specified in commission rules ensures a complete burnout of smoke and odor and, therefore, the oxygen monitor/recorder requirements provide no environmental benefit that justifies the additional cost. FC Industries finally stated that Texas is the only state which requires a continuous oxygen monitor/recorder for animal incinerators. On April 13, 1999, the commission received a letter from Therm-Tec, Inc. of Sherwood, Oregon requesting the commission review the requirement for a continuous oxygen monitor for small pathological incinerators. Therm-Tec, Inc. stated that the oxygen monitoring requirement imposes a major cost for an incinerator operator, with an initial cost as high as 30% of the total project cost, with no real gain in the control of pollution. It stated that good combustion conditions are maintained through the temperature and residence time requirements for the secondary chamber exhaust gas. The air permits staff (see David Ferrell, Air Permits Division, (512) 239-1265) discussed the engineering and economic analysis impacts and agree these changes can be made without sacrificing air quality.

SECTION BY SECTION DISCUSSION

The adopted amendments to §§111.121, 111.125, 111.127, and 111.129 address the concerns raised by these affected parties by deleting the O₂ CEMS requirements for units burning between 100 and 500 pounds per hour, and the CO CEMS requirements for units burning between 225 and 500 pounds per hour. These affected units are those dual chamber incinerators which can meet a permit by rule found in §106.491 or §106.494. These adopted amendments will not delete the requirement to continuously monitor the secondary chamber exhaust gas temperature for units burning more than 100 pounds per hour because temperature is critical in ensuring complete combustion and a continuous temperature monitor can reliably monitor complete combustion at a reasonable capital cost of approximately \$2,000.

Section 111.129 states that "except in the case of incinerators with continuous opacity or carbon monoxide monitors, or equivalent monitors approved by the executive director . . . , the incinerator shall be limited in hours of operation from one hour after sunrise to one hour before sunset" Opacity cannot be effectively monitored through visual methods during darkness; therefore, the existing rule requires a CO CEMS or a continuous opacity monitoring system (COMS). The existing rule language referring to the monitoring requirements found in §111.127 is vague, and can be implied to allow units burning less than 100 pounds per hour to burn during nighttime without a COMS or a CO CEMS. While these units are considered to be relatively small, there is no reason to allow nighttime operation when the opacity cannot be visually monitored. Therefore, this adoption clarifies the commission rule by specifying in §111.121(6) that all units, not just those burning more than 100 pounds per hour, must either operate during daylight hours (one hour after sunrise until one hour before sunset), or install a COMS, CO CEMS, or an equivalent monitor approved by the executive director.

The amendments to the existing Chapter 111, Division 2 are being adopted concurrently with a new Division 2 (Hospital and Medical/Infectious Waste Incinerators) in 30 TAC Chapter 113 (Hazardous Air Pollutants and Stationary Facility Performance Standards); Subchapter D (Designated Facilities and Pollutants), §§113.2070-113.2079. In a separate rulemaking package, the new Division 2 in Subchapter D of Chapter 113 will replace the current medical waste incinerator rules found in Chapter 111 with the hospital and medical/infectious waste incinerator rules required by Title 40 Code of Federal Regulations (CFR), Part 60, Subpart Ce (Hospital/Medical/Infectious Waste Incinerator Emission Guidelines).

Sections 111.121, 111.123, 111.125, 111.127, and 111.129 are amended in several places to reflect the movement of medical waste incineration requirements from Chapter 111 to Chapter 113. Existing language in §111.123 is replaced with a statement that the requirements for medical waste incinerators have been moved to Chapter 113, Subchapter D, Division 2.

Section 111.121(6) is deleted and existing paragraph (7) renumbered because the compliance dates established in the existing paragraph (6) have long since passed and are thus no longer necessary. The new paragraph (6) specifies that the operating requirements specified in §111.129(1), concerning operations during daylight hours, are applicable to incinerators which can claim a permit by rule found in §106.491 or §106.494. This clarifies the commission rule that all units, not just those burn-

ing more than 100 pounds per hour, must either operate during daylight hours or install a COMS or a CO CEMS.

Section 111.127(a) is amended to delete the requirement for continuous monitoring for O₂ or CO for units meeting a permit by rule in §106.491. These units can burn up to 500 pounds per hour of waste which is generated on-site. Such waste includes paper, wood, cardboard cartons, rags, garbage (animal and vegetable wastes as defined in 30 TAC Chapter 101 (General Air Quality Rules)), and combustible floor sweepings containing overall not more than 10% treated papers, plastic, or rubber scraps. Subsection (a) is also amended to delete the requirement for continuous monitoring for O₂ for units meeting the exemption in §106.494. These units can burn up to 200 pounds per hour of pathological waste which is generated on-site.

Numerous editorial changes are incorporated to ensure that the incineration rules in Chapter 111 are consistent with the Guiding Principles and policies of the commission, and are consistent in format, style, and tone per commission guidelines. Section 111.125(2) is amended to allow the use of two additional United States Environmental Protection Agency (EPA) test methods (Methods 26 and 26A) to test hydrogen chloride emissions. The current test method specified is contained in the Texas Air Control Board Sampling Procedures Manual, dated July 1985. The two additional test methods will provide greater flexibility for the owners/operators in testing their CO emissions.

FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The adopted amendments to Chapter 111 are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because the adopted amendments delete current regulatory requirements which are anticipated to have positive economic benefits in affected facilities. The positive economic benefits are realized through the elimination of the requirement to purchase and operate continuous oxygen and carbon monoxide monitoring systems, while at the same time monitoring good combustion with the existing continuous temperature monitoring requirement. The adopted amendments do not change current emissions standards nor the amount of emissions produced by the affected parties. The adopted amendments represent only a change in the method of monitoring those emissions, and as such, the amended monitoring requirements are sufficient to verify good combustion practices of the affected units and protection of the public health and safety. In addition, the adopted amendments are not a "major environmental rule" because they do not meet any of the four applicability requirements of a "major environmental rule." Specifically, the adopted amendments do not exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of a delegation agreement, nor are adopted solely under the general powers of the commis-

sion. There were no comments on the draft Regulatory Impact Analysis during the public comment period.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules in accordance with Texas Government Code, §2007.043. The following is a summary of that assessment. The rules in Chapter 111, Subchapter A, Division 2 currently require most incinerators burning solid waste to be equipped with CEMS. Incinerators burning more than 100 pounds per hour must be equipped with O₂ CEMS and a continuous temperature monitor/recorder. In addition, incinerators burning more than 225 pounds per hour must be equipped with CO CEMS. The O₂ and CO monitoring requirements are considered by the affected parties to be cost prohibitive and not contributing to an environmental benefit that justifies the additional cost. The adopted amendments to §§111.121, 111.125, 111.127, and 111.129 address the concerns raised by above mentioned persons by deleting the O₂ and CO CEMS requirements for certain dual-chamber incinerators which can meet a permit by rule found in §106.491 or §106.494. These adopted amendments will not delete the requirement to continuously monitor the secondary chamber exhaust gas temperature for incinerators which burn more than 100 pounds per hour because temperature is critical in ensuring complete combustion and can be monitored at a significantly lower capital cost of approximately \$2,000, than with an O₂ or CO CEMS capital cost of approximately \$10,000.

This adoption also clarifies the commission rule that all units, not just those burning more than 100 pounds per hour, must either operate during daylight hours, or install a COMS or CO CEMS. The current rule language is vague and can be implied to allow that units burning no more than 100 pounds per hour can operate at night without installing either a COMS or CO CEMS. While these units are considered relatively small, it has not been the commission's intent to allow nighttime operation when the opacity cannot be visually monitored. Therefore, the adopted rule language will clarify that all units, no matter what the burn rate, must either monitor opacity with a CO CEMS or COMS, or restrict operations to daylight hours only.

Promulgation and enforcement of these rules will not burden private real property which is the subject of the rules because this rulemaking will result in a cost savings for units that can qualify for a permit by rule found in §106.491 or §106.494. The cost savings for parties purchasing these incinerators will include an approximate reduction in initial capital cost of 25 - 30% and an approximate reduction in annual operating cost of \$3,000.

Also, the following exception to the application of Chapter 2007 of the Texas Government Code listed in §2007.043(b) applies to these rules: II. B. 5. Adoption of these rule amendments will make the existing rules less stringent for any party which purchases and operates small dual-chamber incinerators that can qualify for a permit by rule found in §106.491 or §106.494. Under existing rules, affected parties which incinerate more than 100 pounds per hour of waste must install, maintain, and operate continuous emissions monitoring systems for O₂ content and temperature of the exhaust gas stream. In addition, affected parties which incinerate more than 225 pounds per hour must install, maintain, and operate a CEMS to monitor CO emissions in the exhaust gas stream. Affected parties which incinerate less than 100 pounds per hour are not required to install and operate a CEMS for oxygen or CO, nor continuous

monitor/recorders for temperature. The adopted rules will require only continuous monitoring and recording of the exhaust gas temperature for those incinerators which incinerate more than 100 pounds per hour. The requirement for an O₂ and CO CEMS remains the same for incinerators which cannot meet either of the permit exemptions, i.e., for units burning more than 500 pounds per hour for non-pathological waste incinerators and more than 225 pounds per hour for pathological waste incinerators.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that of this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resource Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3), relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at 40 CFR, to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). Although there is no analogous federal requirement at this time, §7429 of the Federal Clean Air Act Amendments of 1990 requires EPA to establish performance standards and other requirements for each category of solid waste incineration unit. In addition 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), requires that states adopt rules to ensure that they attain and maintain the national ambient air quality standards (NAAQS). These adopted rules involve emissions of two of the NAAQS, particulate and carbon monoxide, and do not propose an increase in emissions which would violate the NAAQS. The adopted rules do not change current emissions standards nor the amount of emissions produced by the affected parties. The adopted rules represent only a change in the method of monitoring those emissions, and as such the amended monitoring requirements are sufficient to verify good combustion practices of the affected units and protection of the public health and safety. Therefore, the adopted rules are consistent with 40 CFR Part 51. There were no comments on the consistency of the proposed rules with the CMP during the public comment period.

HEARING AND COMMENTERS

A public hearing on this proposal was held in Austin on January 5, 2000, at 10:00 a.m. in Room 5108 of TNRCC Building F, located at 12100 Park 35 Circle. The comment period closed on January 7, 2000. No commenters submitted oral testimony on the proposal. Two commenters submitted written testimony on the proposal. One individual generally supported the proposal. The Texas Department of Transportation (TxDOT) neither opposed nor supported the proposal.

ANALYSIS OF TESTIMONY

An individual stated that §111.127 is too big, unwieldy, hard to read, and confusing. The individual suggested that the section

be broken down so it is easier to read and clear as to what requirements apply to each type of incinerator.

The commission agrees that §111.127, as well as the other sections in Subchapter A, needs to be rewritten in a more readable and less confusing format. Although some editorial changes were made in this proposal, other rulemaking priorities precluded a complete regulatory reformatting of Chapter 111 at this time. Chapter 111 is currently undergoing its quadrennial review to determine if the need for the rules continue to exist. Part of the quadrennial review is to receive comment from the public regarding the readability, formatting, and clarity of Chapter 111, therefore the comment from this individual will be referred to the quadrennial review team.

An individual expressed support of the requirement in §111.127(a) that incinerators which qualify for a permit by rule under §106.491 or §106.494 must have a monitoring device that continuously measures and records the temperature of the incinerator exhaust gas.

The commission agrees that the temperature monitoring requirement in §111.127(a) is critical to ensuring complete combustion and that a continuous temperature monitor can reliably monitor complete combustion at a reasonable capital cost.

An individual expressed an opinion that the stack test records kept in accordance with §111.127(b) should be maintained until the next stack test is conducted rather than being kept only two years. The individual stated that the air quality inspectors will not know if a test has been conducted if the records are not kept longer than two years.

The primary purpose of this rulemaking action is to revise the monitoring requirements for certain small incinerators. A secondary purpose is to delete the medical waste incineration rules and references to those rules from Chapter 111 so that hospital/medical/infectious waste incineration rules may be adopted into Chapter 113. As such, the amendments proposed in §111.127 did not address the records retention period. Chapter 111 is scheduled to undergo its quadrennial review this summer to determine if the need for the rules continues to exist. Part of the quadrennial review is to receive comment from the public regarding technical changes to the Chapter 111 existing rule language, therefore the comment from this individual will be referred to the quadrennial review team.

TxDOT stated that they reviewed the proposal, but had no comment on the proposed amendments.

The commission appreciates the TxDOT review of the rule proposal.

STATUTORY AUTHORITY

These amendments are adopted under the Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. The amendments are also adopted under the TCAA, §382.011, which provides the commission with the authority to control the quality of the state's air, which the newly adopted rule will accomplish by regulating air emissions from incinerators; and §382.016, which authorizes the commission to require monitoring requirements

and examination of records and therefore is consistent with the referenced requirements.

§111.127. Monitoring and Recordkeeping Requirements.

(a) Except for incinerators which can qualify for a permit by rule found in §106.491 of this title (relating to Dual Chamber Incinerators), or §106.494 of this title (relating to Pathological Waste Incinerators), incinerators burning more than 100 pounds per hour of waste as specified in §111.121 of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators) shall install, calibrate, maintain, and operate a monitoring device that continuously measures and records the oxygen (O₂) content and temperature of the exhaust gas of the incinerator. Incinerators which qualify for a permit by rule in §106.491 or §106.494 of this title, and which burn more than 100 pounds per hour, shall install, calibrate, maintain, and operate a monitoring device that continuously measures and records the temperature of the exhaust gas of the incinerator. The monitoring device for incinerators equipped with a wet scrubbing device shall continuously measure and record the pressure drop of the gas flow through the wet scrubbing device. Except for incinerators which can qualify for a permit by rule found in §106.491 or §106.494 of this title, incinerators burning more than 225 pounds per hour of domestic, municipal, commercial, or industrial solid waste shall be equipped with continuous emissions monitors which measure and record in-stack carbon monoxide (CO) in addition to the other requirements of this section. A total hydrocarbon (THC) monitor may be substituted for the CO monitor if a THC standard is established in accordance with §111.121(3) of this title. For municipal incinerators built prior to 1990 and burning less than 2,000 pounds per hour of municipal solid waste, a stack test for CO may be performed to establish O₂ and temperature requirements necessary to maintain minimum CO emissions, and monitoring of these parameters may be substituted for the CO monitoring device. The O₂, THC, and CO monitoring devices described in this section must be certified for use following procedures outlined in 40 Code of Federal Regulations (CFR) 60, Appendix B, Performance Specifications 3 and 4, respectively. Such certification must be approved by the executive director or a designated representative of the Texas Natural Resource Conservation Commission (TNRCC). Compliance determinations may be made based on results of monitoring with a certified monitor. Compliance with the CO and/or THC requirements specified in §111.121(3) of this title and §111.124(4) of this title (relating to Burning Hazardous Waste Fuels in Commercial Combustion Facilities) may be demonstrated using a rolling hourly average. The rolling hourly average shall be defined as the arithmetic mean of the 60 most recent one-minute concentrations measured by the continuous monitoring system.

(b) The owner or operator of an incinerator or commercial combustion facility subject to the requirements of §§111.121, 111.124, and 111.125 of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators; Burning Hazardous Waste Fuels in Commercial Combustion Facilities; and Testing Requirements), respectively, shall maintain written records of all monitoring and testing results, hours of operation, and quantity of waste burned. Such records shall be retained for a period of not less than two years before being destroyed. Such records shall be made available upon request by authorized representatives of the TNRCC, United States Environmental Protection Agency (EPA), or local air pollution control agencies. Alternately, for facilities other than commercial combustion facilities, in the absence of records verifying waste quantities burned, the design capacity of the unit will be used to determine applicable controls.

(c) The owner or operator of a commercial combustion facility subject to the requirements of §111.124 of this title shall install, calibrate, maintain, and operate a monitoring device that continuously measures and records the waste feed rate, combustion gas velocity, opacity, O₂ content, CO content, THC content, and temperature of the exhaust gas of the combustion device. CO and THC shall be corrected to 7.0% O₂, reported on a dry basis, and measured in the same location. The O₂, THC, CO, combustion gas velocity, and opacity devices must be certified for use following procedures outlined in 40 CFR Part 60. Such certification must be approved by the executive director or his designated representative of the TNRCC. Compliance determinations may be made based on results of monitoring with a certified monitor.

(d) Upon the request of the executive director or a designated representative of the TNRCC, EPA, or local air pollution control agency, the owner or operator of an incinerator which is exempt from the requirements specified in §111.121 of this title and whose incinerator has the capacity to burn more than 100 pounds per hour shall maintain written records of the amount of waste burned. Such records shall be retained for a period of not less than two years before being destroyed.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 19, 2000.

TRD-200003506

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: June 11, 2000

Proposal publication date: December 3, 1999

For further information, please call: (512) 239-0348



Chapter 113. CONTROL OF AIR POLLUTION FROM TOXIC MATERIALS

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §113.1 (Definitions), and new §113.2070 (Definitions), §113.2071 (Designated Facilities), §113.2072 (Emission Limits), §113.2074 (Inspection Requirements), §113.2075 (Compliance and Performance Testing Requirements), §113.2076 (Monitoring, Reporting, and Recordkeeping Requirements), §113.2077 (Waste Management Plan), §113.2078, (Operating Procedures and Operator Training/Qualification Requirements), and §113.2079 (Compliance Schedules). The commission adopts these revisions to Chapter 113 (Control of Air Pollution from Toxic Materials); Subchapter A (Definitions); and Subchapter D (Designated Facilities and Pollutants), new Division 2 (Hospital/Medical/Infectious Waste Incinerators) in order to implement the Hospital/Medical/Infectious Waste Incinerator (HMIWI) emission guidelines found in Title 40 Code of Federal Regulations Part 60 (40 CFR 60), Subpart Ce (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators) adopted September 15, 1997. The commission also adopts a new section II. F. (Plan for Control of Hospital/Medical/Infectious Waste Incinerators) in the Control Strategy chapter of the State Plan for the Control of Designated Facilities and Pollutants (state plan). Sections 113.2070-113.2072 and 113.2075-113.2078 are adopted with changes to the proposed